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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,708	03/13/2000	Mario Beretta	33330/GM/vp	6656

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EXAMINER

WACHTEL, ALEXIS A

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/06/2001

3

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-3

Office Action Summary

Application No.

09/523,708

Applicant(s)

BERETTA, MARIO

Examiner

Alexis Wachtel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Detailed Action

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. With regards to said claim, term “co-extruded” is drawn to the fabrication of a three dimensional article via the extrusion process. Applicant has not disclosed how to extrude in three dimensions. Nor has applicant shown that such a process is well known in the art.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. With regards to claim 1, it isn't clear what applicant means by phrase “a first and a second layer which are spaced one another and joined by spacers...” Examiner assumes phrase means “a first and a second layer which are placed next to one another and joined by spacers...”

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6. With regards to claims 1-10, it isn't clear what applicant means by phrase "net-like structure." Examiner assumes phrase means an open meshed fabric.

7. With regards to claim 2, it isn't clear what applicant means by phrase "said first and second layers are formed by a first set of yarns which are mutually parallel on one respective of the layers..." Examiner assumes phrase means that a set of yarns on one side of the layer are parallel to each other.

8. With regards to claims 3-7 it isn't clear what applicant means by phrase "grid-like element." Examiner assumes term means a network of uniformly spaced and intersecting members. In addition, with respects to claim 3, it isn't clear what applicant means by phrase "formed by means of a grid-like element." Are the layers the grid or are they formed by a grid-like apparatus? Examiner assumes that the layers are the grid.

9. With regards to claims 8,9 it isn't clear what applicant means by phrase "sheet-like." Examiner assumes term means a portion of something that is thin in comparison to its length and width.

10. With regards to claim 10 it isn't clear what applicant means by term "associated" Examiner assumes term to mean attached or affixed.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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12. Claims 1-9 rejected under 35 U.S.C. 102(b) as being anticipated by US 5,651,641 to Stephens et al.

The method limitation in claim 1 of "co-extrusion" is not given patentable weight.

Stephens et al is directed to geotextiles and teaches that three dimensional matrix meshes are known in the art. The three dimensional mesh is made from cusped polyethylene meshes that are heat bonded together, to form spacers between said meshes (Col 2, lines 5-10). Said mesh can also be made by mechanically stitching mesh layers between high strength netting (Col 2, lines 9-12). With respects to claims 8 and 9, meshes have openings in them and are taken to be sheets.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,651,641 to Stephens et al in view of US 4,572,700 to Mantarro et al.

The teachings of Stephens et al have been set forth above.

Mantarro et al is directed geotextiles and teaches a water permeable fabric that is attached to a three dimensional geotextile drainage mat (Col 7, lines 16-22, Figs 1, Fig 2, Col 19, claim 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have attached said water permeable fabric to Stephens et al's

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three dimensional matrix mesh motivated by the desire to facilitate said mesh's ability to prevent objects other than water from flowing through it.

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alexis Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays- Thursdays from 9:30am to 7:30pm.

If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Terrel Morris, can be reached at (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872- 9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



CHERYL A. JUSKA
PRIMARY EXAMINER